

**MARKET CONDUCT EXAMINATION REPORT**

**of**

**AMERICAN GENERAL ASSURANCE COMPANY**

**of**

**SCHAUMBURG,  
ILLINOIS**

**As of**

**December 31, 2002**

**By**

**VERMONT DEPARTMENT OF BANKING,  
INSURANCE, SECURITIES AND HEALTH CARE  
ADMINISTRATION**



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April 11, 2006

The Honorable John Crowley  
Commissioner  
Vermont Department of Banking, Insurance,  
Securities and Health Care Administration  
89 Main Street, Drawer 20  
Montpelier, Vermont 05620

Dear Commissioner Crowley:

Pursuant to your instructions and in compliance with the provisions of 8 V.S.A. § 3565 et seq. and procedures promulgated by the National Association of Insurance Commissioners, an examination of the market conduct activities has been conducted of:

American General Assurance Company, NAIC # 68373

Mail Address:  
3600 Route 66  
Neptune, New Jersey 07754-1580

Statutory Home Office:  
1000 Woodfield Road  
Schaumburg, IL 60173-4793

The report thereon, as of December 31, 2002, is respectfully submitted.

## **FOREWORD**

This target market conduct examination report is written generally by exception and references to additional practices, procedures and files subject to review during the examination were omitted from the report if no improprieties were observed.

American General Assurance Company is referred to throughout this report as the “Company” or “AGAC”, unless specifically mentioned by name. The Vermont Department of Banking, Insurance, Securities and Health Care Administration is referred to as the “Department” or the “Vermont Department”.

The Company’s responses, with respect to the findings of this examination, will be made available upon written request to the Vermont Department.

## **SCOPE OF EXAMINATION**

### **EXAMINATION AUTHORITY**

The examination of American General Assurance Company was conducted pursuant to applicable Vermont statutes and regulations.

### **TIME FRAME**

The examination generally covers the period from January 1, 2000 through December 31, 2002.

### **SAMPLING METHODOLOGY**

The examiners used random sampling techniques, utilizing ACL software.

### **EXAMINATION SITUS**

The Company's statutory home office is located at 1000 Woodfield Road, Schaumburg, Illinois 60173-4793, however, this examination was conducted entirely off-site. Information, documents and other materials were provided directly to the examiners in hard copy and/or computer diskettes.

### **MATTERS EXAMINED**

- Marketing and sales
- Use of properly filed rates and forms
- Supervision of Credit Lenders
- Claims administration

## **PREVIOUS EXAMINATIONS**

### **PRIOR REPORT SUMMARY AND CONCLUSIONS**

The Vermont Department did not conduct an examination of the Company during the last five years.

## **EXECUTIVE SUMMARY**

This was a target market conduct examination focused primarily on credit life and credit disability claims and rating procedures covering the period from January 1, 2000 through December 31, 2002.

Seventy-five percent (75%) of the claim files reviewed by the examiners contained violations of Vermont statutes and/or regulations. The majority of violations resulted from the Company's failure to pay interest on death claims. The statute requires that the Company pay interest accrued from the date of death at the rate paid on proceeds left on deposit or six percent (6%) whichever rate is greater. The examiners are recommending that the Company correct its procedures in addition to going back and paying the proper amount of interest on all claims paid during the past five (5) years. The interest should accrue from the dates of death until the interest is paid by the Company. Other miscellaneous claim processing violations are described in the report.

In eighty-two percent (82%) of the examiners' sample of certificates, which afforded accident and health (disability) in addition to life insurance, the Company failed to pay the unearned disability premium to the beneficiaries as required by 8 V.S.A. § 4724 (12) and Vermont Regulation 84-1 § 3 (9) (a). The examiners are recommending that all such amounts resulting from death claims paid during the past five (5) years be refunded together with interest.

The Company had substantial problems producing various records requested by the examiners and should make significant changes in its record keeping procedures in order to fully comply with Vermont Regulation 99-1.

The Company failed to comply with Regulation 84-1 § 11 regarding the supervision of credit insurance operations in that it did not maintain written records of the required periodic review of creditors. During the examination, the Company developed an "Audit Form" as part of its corrective action, which is designed for use on an annual basis.

The Company has displayed a serious disregard for the laws and regulations requiring the filing of experience and rates by June 1 of each year. The filing, which was due by June 1, 2001, was not filed with the Vermont Department until August 10, 2001 and was not corrected and refiled until July 26, 2002, approximately one year and two months late. The filing due June 1, 2002, was not filed until September 20, 2002, nearly four (4) months late. The net result was that many insureds did not realize the rate decreases to which they were entitled.

As to the Company's credit card program, there were premium overcharges due to the Company's misapplication of its rating plan, which was filed and approved by the Vermont Department, in violation of 8 V.S.A. § 4109 (a).

The Company should go back and refund all premium overcharges since September 1, 2001, with interest.

Persons who solicit the credit life and credit disability insurance are not licensed by the Vermont Department in violation of 8 V.S.A. § 4813b, nor were these putative licensees appointed by the Company in violation of 8 V.S.A. § 4813l. The examiners are recommending that all persons engaged in the solicitation of insurance through the Company become duly licensed in accordance with 8 V.S.A. § 4813b and appointed as required by 8 V.S.A. § 4813l.

The Company failed to report any of the thirteen (13) reportable actions by other insurance departments as required by Vermont Bulletin 30.

The Company failed to send the required Notice of Transfer to certificateholders and policyholders of the ceding company, in the assumption reinsurance transaction described in the report, as required by 8 V.S.A. § 8204 and § 8205.



## **COMPANY PROFILE**

### **HISTORY**

AGAC was incorporated on November 21, 1929 as a mutual life insurance company and commenced business on February 1, 1930. The original title was Reliance Mutual Life Insurance Company of Illinois. In 1962, the Company was reincorporated as a stock company and in 1964 the name was changed to Reliance Life Insurance Company of Illinois. In 1973, the name USLIFE Credit Life Insurance Company was adopted. On June 17, 1997, the Company's parent, USLIFE Corporation, was purchased by American General Corporation and in 1998 the name was changed to its current, American General Assurance Company. AGAC is an indirect wholly owned subsidiary of the American International Group, Inc. (AIG).

AGAC became licensed in Vermont on January 15, 1997, but did not write any significant amount of business until 2002. The major line of business is credit life and credit disability insurance. Of the total amount of business in force in Vermont at December 31, 2002, approximately 40% was written during 2002 and approximately 60% was acquired from an affiliated company, All American Life Insurance Company, through an assumption reinsurance agreement, which became effective on January 1, 2002.

The Company is licensed in the District of Columbia and all states with the exception of New York.

### **STATUTORY HOME OFFICE**

1000 Woodfield Road  
Schaumburg, IL 60173-4793

## **VERMONT REPORTED PREMIUMS**

Direct written premiums in Vermont for the years indicated are as follows:

	<b>2000</b>	<b>2001</b>	<b>2002</b>
<b>Credit Life</b>	0	11	374,097
<b>Other Life</b>	0	0	0
<b>Credit Disability</b>	0	36	310,914
<b>Other A &amp; H</b>	0	122	100,086
<b>Totals</b>	0	\$ 169	\$ 785,097 *

\* It should be noted that the amount of written premiums is not an indicator of the total volume of business in Vermont at December 31, 2002, since approximately 60% of the in force business was acquired from an affiliated company as of January 1, 2002, under an assumption reinsurance agreement. Since the acquired business was mostly single premium credit life and credit disability insurance, written by the ceding company in prior years, it does not show up as premiums written by AGAC.

## **(I) SALES AND MARKETING**

### **(A) OVERVIEW**

The Company's business consists of approximately 80% traditional single premium credit life and credit disability insurance, 15% monthly outstanding balance credit life and disability covering credit card balances and 5% mortgage insurance.

Coverage in Vermont is written almost entirely under group policies, sold through a general agent, where the policyholders are banks and other financial institutions (creditors) with individual certificates being issued to the covered debtors.

The Company did not write any business in Vermont during 2000 and only a trivial amount in 2001. In 2002, however, the Company acquired \$38,239,047 of insurance, consisting of 6,313 individual Vermont certificates, from an affiliated company, All American Life Insurance Company, through an assumption reinsurance transaction, which became effective on January 1, 2002. During the same year, the Company wrote \$28,981,350 of insurance in Vermont, consisting of 3,844 individual certificates, on a direct basis.

### **(B) ASSUMPTION REINSURANCE**

In the course of reviewing the assumption reinsurance transaction, the examiners observed that the Company failed to send the required Notice of Transfer to certificateholders and policyholders of All American Life Insurance Company in violation of 8 V.S.A. § 8204 and § 8205. The Company stated that they would send the Notices of Transfer within the next few months.

The examiners recommend that the Company specify a date (deadline) by which the required notices will have been sent to all affected certificateholders and policyholders. By the end of that time a senior officer should certify, in writing, to the Commissioner that the task has been completed in accordance with the law.

It should be noted that, although AGAC did not acquire the All American Life business until January 1, 2002, the examiners review included the rates for certificates issued by All American during 2000 and 2001 as well as claims processing and other transactions occurring during that period as though the business had originally been written directly by AGAC. The examiners' findings are discussed throughout this report under the appropriate headings.

## **(C) PROHIBITED TRANSACTIONS**

Vermont Regulation 84-1 § 12 (Prohibited Transactions) states that certain practices, when engaged in by insurers in connection with the sale or placement of credit insurance, or as an inducement thereto, shall constitute unfair methods of competition and shall be subject to the Unfair Trade Practices Act.

One type of practice barred by the Regulation is set forth under Regulation 84-1 § 12 (1), which reads as follows:

*(1) The offer or grant by an insurer to a creditor of any special advantage or any service not set out in either the group insurance contract or in the agency contract other than the payment of agents commissions;-----.*

The Company offers or grants the creditors (group policyholders) an opportunity to have the specific business they write reinsured by reinsurers that are owned, controlled or otherwise affiliated with such creditors. This special advantage allows the creditors an opportunity to derive additional profits from reinsurance on their own business; however, such special advantage is not set out in the group insurance contracts. A description of these arrangements is as described below.

Schedule S of the Company's Annual Statement for the year 2002 contains listings of numerous reinsurers to which the Company ceded business during the year. Most of the reinsurers listed in that Exhibit are shown as being domiciled in Phoenix, Arizona, the Turks and Caicos Islands or the British Virgin Islands. Some of these reinsurers are either owned, controlled or otherwise affiliated with the same creditors that are policyholders of the group policies under which the business is written.

This reinsurance, which is tied in with the Company's sales of credit insurance, consists of quota share treaties structured so that the reinsurers assume the Company's liabilities, to the extent of the quota share percentage specified in the treaties, for the specific business written by the creditor. In return AGAC retains a reinsurance fee (Company Retention). The Company Retention is comprised of a specified percent of net written premium plus applicable state premium tax and assessments, if any.

The examiners recommend that the Company discontinue these reinsurance agreements, which are among those types of transactions prohibited by Vermont Regulation 84-1 § 12 (1).

## (II) CLAIMS PROCEDURES AND PROCESSING

### (A) CLAIMS SAMPLE

The examiners requested a listing of all credit life claims paid from January 1, 2000 through December 31, 2002. The listing contained a total of one hundred and thirteen (113) claims. A sample of sixty (60) claim files was randomly selected for review in order to determine compliance with Vermont's statutes and regulations. Four (4) of the sample files were disallowed as they were issued in states other than Vermont. Therefore, the total number of claim files reviewed was fifty-six (56).

#### Vermont Reported Death Benefits Paid (Credit Life - Group and Individual))

Year	Death Benefits
2000	0
2001	0
2002	\$169,923

### (B) RESULTS OF CLAIMS SAMPLE REVIEW

Forty-two (42) of the fifty-six (56) claim files reviewed contained violations of Vermont statutes and regulations as described below.

#### (1) Violations of 8 V.S.A. 3665 ( c ) (2)

There were thirty-two (32) violations of 8 V.S.A. § 3665 ( c ) (2) which requires:

*All payments of claims under policies of life insurance shall include interest accrued from the date of death of the insured. The interest rate shall be the rate paid on proceeds left on deposit, or six percent whichever rate is greater.*

(Underlining added for emphasis)

Twenty-nine (29) of the thirty-two (32) violations of 8 V.S.A. § 3665 ( c ) (2) were cases where the Company failed to pay interest on the death benefit. In the remaining three (3) cases cited, the Company paid less than the statutorily required rate of 6% interest.

The Company should revise its claim procedures so as to pay the required interest on all future death claims and should go back and pay the proper amount of interest on all death claims paid during the past five (5) years. Such interest should accrue from the dates of death until the interest is paid by the Company.

**(2) Violations of 8 V.S.A. § 4724 (12) & Regulation 84-1 § 3 (9) (a)**

Out of the fifty-six (56) sample files reviewed, twenty-two (22) certificates/files contained accident and health insurance (disability) as well as life benefits. The examiners found eighteen (18) violations of 8 V.S.A. § 4724 (12) and Regulation 84-1 § 3 (9) (a) out of the twenty-two (22) certificates that included disability coverage, in that the Company did not refund the unearned disability (A&H) premiums.

It should be noted that the Company's response to the examiners' criticism involving claim numbers 95017, 100842 and 91746, citing the Company for not refunding the unearned disability premiums, was in disagreement as the Company stated that the unearned premiums were previously refunded. Upon requesting a copy of the refund checks for verification, the Company responded:

*We are unable to produce copies of the checks for these refunds. Effective 4/1/2003 we implemented a new billing system that captures where checks are sent and we will be able to produce copies showing the amount of the refund and to whom it was sent.*

Refer to the section of this report entitled " Production of Records" page 15, which describes additional problems the examiners encountered in securing files and records for the examination.

Additionally, the examiners observed that claim # 106947 contained a notation in the file, written by the Company's general agent, which indicated that their banks were exempt from refunding unearned disability (A&H) premiums. The examiners requested an explanation of the statement and received the following response:

*The company decided several years ago that we needed to process this refund automatically as part of the death claim to ensure it gets processed. Some institutions did not want us to automatically process the refund so we set up a process for certain institutions to be exempt from the automatic refund. The notation from (general agent) states they are exempt from us automatically processing the refund. They will request the refund separate from the auto process.*

Note, that the refund was not made, in this case, to the debtor's beneficiary as required by 8 V.S.A. § 4724 (12) & Regulation 84-1 § 3 (9) (a).

The Company's failure to refund the unearned accident and health (disability) insurance premiums in the case described above and in other cases where the Company had exempted the institutions from the automatic refund, contravenes Vermont's Regulation 84-1 § 3 (9) which states that "If an indebtedness is prepaid by the proceeds of a credit life insurance policy covering the debtor or by a lump sum payment of a disability claim under a credit insurance policy covering the debtor, then it shall be the responsibility of the insurer to see that the following are paid to the insured debtor if living or the

beneficiary, other than the creditor, named by the debtor or to the debtor's estate."  
(Underlining added for emphasis)

It is recommended that the Company immediately begin refunding the unearned disability (A&H) premiums directly to the beneficiaries upon the death of an insured in addition to going back and paying such amounts on all claims paid during the past five (5) years, with interest thereon.

**See Appendix**

**(C) REVIEW OF DENIED CLAIMS**

**(Claim # 01024086-Certificate # 0006672240)**

The Company failed to notify the claimant every thirty (30) days, setting forth the reasons the additional time was needed for the claim investigation, as required by Regulation 79-2 § 6 C.

The Company responded that they "now have automatic letter generation capability which will systematically produce a status letter every 15 days".

**(D) REVIEW OF CLAIM COMPLAINT FILES**

**(1) Claim # 20006332-Certificate # 0002497478**

The Company failed to comply with 8 V.S.A. § 3665 (d) in that as the claim was not timely paid, the penalty rate of 12% was not applied to the claim settlement as described below.

Note that the proof of loss was received on 7-17-03, however, the claim was not paid until 10-13-03. 8 V.S.A. § 3665 (d) requires that if an insurer fails to pay a claim timely, as in this case, the penalty interest (12% in Vermont) shall accrue from thirty days after the proof of loss was received until the date the claim is paid.

Additionally, the Company is in violation of Vermont Regulation 79-2 § 6 C. in that the claimant was not notified every 30 days setting forth the reasons the additional time was needed for the investigation. The examiners note only two letters of notification dated 7-3-03 and 8-21-03 in the file.

**(2) Claim # 20006332 VT File # 2003979**

The Company is in violation of Vermont Regulation 79-2 § 5 C., in that they failed to respond to an inquiry or complaint from the Vermont Department within 15 working days.



### **(III) PRODUCTION OF RECORDS**

The necessity of reviewing company files and records is of paramount importance when performing a market conduct examination. For a proper examination, a sufficient quantity of files must be reviewed in order to determine compliance with Vermont statutes and regulations.

The examiners encountered numerous problems in securing the Company's records which were subject to examination as described below.

#### **(A) EARLY TERMINATIONS SAMPLE**

The examiners initially requested a listing of all certificates that were terminated early due to repayment of the loan (prior to the expiration date) with the exception of death claims, occurring during the examination period. The Company submitted the requested listing which contained an approximate total of thirty-one thousand, eight hundred and forty records (31,840). From this population (31,840) the examiners selected a random sample of two hundred (200) files utilizing ACL software.

After reviewing the sample, the examiners observed that the files presented were not complete and did not contain sufficient information to calculate refunds or determine timeliness of payment. Subsequently, after the Company was informed of the problem, the examiners were furnished more complete files. Upon review of the additional information, it was observed that numerous files provided for the review were not early terminations as requested but contained certificates that had expired. The initially provided listing did not filter out the expired certificates and in addition it appeared that the listing may have included all certificates which were issued during the examination period (note the population of the issued certificates discussed in the following section). The Company provided a second listing representing a more accurate count of those certificates, according to the Company, which were terminated early as initially requested. The second listing contained an approximate number of seven thousand, one hundred and fifty-three records (7,153).

Further, when the sample files were furnished for the examiners' review, the Company stated in the accompanying cover letter that "there were several files we could not locate. If there is a file listed with a bank name instead of an insured this is because the bank supplied us with the insured's information in a tape file versus a paper file. It is the creditor's responsibility to maintain the certificate files. We do not have copies in our office."

The Company is in violation of Regulation 99-1 § 6 A., C. & D. in that those records stored in a tape file format and requested for examination, with regard to the early terminations sample, were not reproduced nor provided to the examiners for review as required by the regulation.

## **(B) ISSUED SAMPLE**

The Company provided a listing of all Vermont certificates, which were issued during the examination period. The population of that listing was thirty-one thousand eight hundred and thirty-nine (31,839) records from which two hundred (200) samples were selected for review in order to determine compliance with appropriate Vermont statutes and regulations.

The Company failed to furnish eighty-six (86) of the two hundred (200) requested files, (forty-three percent (43%) of the sample). The Company's failure to maintain records and make them readily available to the examiners for their review constitutes violations of Vermont Regulation 99-1 § 4 A. (1) and § 6 A.

Refer to the section of this report entitled "Rates and Related Issues" for a discussion of the findings of the review of the one hundred and fourteen (114) certificates that were provided.

The Company should make substantial changes in its record keeping procedures in order to fully comply with Vermont Regulation 99-1.

## **(IV) SUPERVISION OF CREDIT INSURANCE OPERATIONS**

Vermont Regulation 84-1 § 11 requires that each insurer transacting credit insurance in the state shall be responsible to conduct a through periodic review of creditors to assure compliance with Vermont insurance laws and regulations. It further provides that written records of such reviews shall be maintained by the insurer for review by the Insurance Commissioner and retained for a period of at least five (5) years.

The Company failed to maintain written records of such reviews in violation of Regulation 84-1 § 11. The Company responded to the examiners' criticism by stating that corrective action would be taken and that an "Audit Form" has been developed which will be used on an annual basis.

The sections of this report entitled "Production of Records" and "Rates and Related Issues" describes problems related to the Company's failure to maintain records. Proper supervision of the creditors could likely have prevented these situations. The examiners pointed out to the Company that they failed to furnish sixty-six (66) of the one hundred and twelve (112) certificates requested in Sample II and twenty (20) of the eighty-eight (88) requested in Sample I. The Company responded, in pertinent part, as follows:

*The creditor is responsible for retaining copies of the certificates. The certificates that were requested of us and not found were most likely filed incorrectly. In April of 2003 we implemented the use of an imaging system. This system allows us to store and easily retrieve documents with multiple search mechanisms and will prevent misplaced certificates.*

The point here is that the Company cannot merely pass their responsibilities on to the creditors. Proper supervision of creditors and periodic reviews in accordance with Regulation 84-1 § 11 would likely have prevented the loss of or misfiling of so many certificates. It is the Company's responsibility to assure that the creditors perform their duties in an appropriate manner.

Further, the section of this report entitled "Claims Procedures and Processing" (II) (B) (2) contains a discussion of the failure to refund an unearned disability premium, apparently due to the exemption of the creditor from an automatic refund process. Proper supervision of creditors by the Company would likely have prevented this type of violation from occurring.

The examiners recommend that the Company immediately follow through with its new proposal to audit the creditors annually, paying particular attention to the problems discussed in this report.

## **(V) RATES AND RELATED ISSUES**

### **(A) IMPROPER EXPERIENCE & RATE FILINGS**

American General Assurance Company (AGAC) assumed the credit life and disability business of its affiliate, All American Life Insurance Company (AALIC) under an assumption reinsurance transaction, which became effective on January 1, 2002. Experience for the year 2000 for AALIC and the required rate filing, both of which were due by June 1, 2001 (Vermont Regulation 84-1 § 9 and § 10 (5)) were not filed until August 10, 2001 by AGAC. The filing was not corrected and refiled with the Vermont Department until July 26, 2002, approximately one year and two months late. The rate filing contained a statement to the effect that none of the rates were being changed since the newly calculated case rates were 5% or less different from the existing case rates. Vermont Regulation 84-1 § 10 (4) ( c), entitled MINIMUM CHANGES, provides that, "if the new case rate does not differ by more than 5%, from the current case rate, the new case rate will be the current case rate."

In a letter dated June 12, 2003, AGAC informed the Vermont Department that the rates filed on July 26, 2002 were calculated incorrectly due to the Company's using a 6% investment rate assumption when the investment rate assumption should have been 8%. In the course of their review of the various experience and rate filings, the examiners inquired as to whether the rates based on 2000 experience (filed on July 26, 2002) would not have been overstated due to the Company's error in using the 6% investment earning rate assumption in lieu of 8%. AGAC responded by informing the examiners that the rates were not overstated. They acknowledged that there would have been changes in the investment income adjustment to earned premium at prima facie, but none significant enough to require new rates different from those filed. This would have meant that no case rate calculated at the correct 8% investment would have been more than 5% lower than the current case rate, per Vermont Regulation 84-1 § 10 (4) ( c).

The examiners subsequently requested AGAC to provide detailed calculations for both the 6% investment rate assumption and the 8% investment rate assumption in order to support their contention that the error had not caused any rates to be overstated, i.e., that no new case rate, using the 8% investment assumption, would be more than 5% lower than the existing case rate.

As it turned out, the Company's calculations, transmitted by a letter dated April 14, 2004, showed that the Company's contention was untrue. According to their own calculations, the new case rate for Bank Single Premium Life would have been 0.435 at the 8% investment rate assumption as compared with 0.440 at the 6% investment rate assumption. Since the current rate was 0.462 at 12/31/00, the rate should lawfully have been reduced from 0.462 down to 0.435 because the reduction would have been 5.84% of the current rate, i.e., a greater reduction than 5% from the then current rate, pursuant to Vermont Regulation 84-1 § 10 (4) ( c).

The examiners' analysis of the entire situation, as described above, is that a 0.435 Bank Service Premium Life rate should have been filed no later than June 1, 2001 rather than waiting until July 26, 2002 and leaving the existing rate of 0.462 unchanged. Since the rate filing was obviously not disapproved by July 1, 2001, it should have been made effective on September 1, 2001, pursuant to Vermont Regulation 84-1 § 10 (5).

Vermont Regulation 84-1 § 10 (5) states that, if the commissioner does not disapprove the new schedule of rates within 30 days of receipt of the filing, or July 1, whichever is later, rates not higher than the new rates shall be placed in effect on September 1 next following unless a different effective date has been approved by the Commissioner.

As indicated above, Vermont Regulation 84-1 § 9 requires all companies doing credit business in the state to file Experience Reports annually by June 1. Section 10 (5) of the regulation also requires insurers who are required to file reduced rates under Section 10 (3) (b) to file a new schedule of rates when submitting the Experience Reports required by Section 9.

The Company failed to file the Experience Reports and accompanying rate filing, which were due on June 1, 2002 until September 20, 2002, a period of nearly four (4) months, notwithstanding the following comment by the Company's former actuary in a letter dated April 18, 2002, to the Vermont Department:

*Again, I apologize for the delays in responding to the Department, and for any inconvenience these delays have caused. I have taken action to see to it that the process for year end 2001 is completed on a timely basis, so that year 2000 will be the last year with these challenges.*" (Underlining added for emphasis)

The Company's actuaries were in discussions with the Department's consulting actuary on a regular basis from May 26, 2001, through September 23, 2002, and it is their contention that these ongoing discussions regarding the 2000 filing caused them to delay their 2001 filing.

Most of the rate adjustments filed on September 20, 2002, were rate decreases. The net result of the Company's failure to file the required rate decreases on a timely basis (for the second year in a row) is that certain insureds ended up paying higher premiums than they would have, had the Company complied with the Regulation.

The examiners recommend that the Company go back and make rate reductions and appropriate refunds on all policies where the rates were not reduced due to their failure to file rates and experience on a timely basis as well as in the cases where the Company failed to reduce rates due to their improper use of a 6% investment assumption rather than an 8% investment assumption in their rate calculations, together with interest thereon. The refunds should begin with policies issued on or after September 1, 2001.

## **(B) CERTIFICATE REVIEW FOR GROUP CREDIT LIFE AND CREDIT DISABILITY**

The Company's credit life and credit disability insurance were issued on the same certificate. The examiners selected a random sample of two hundred (200) certificates utilizing ACL software. As discussed in Section III (B), the Company failed to provide eighty-six (86) of the requested sample files for examination. The purpose of the review was to determine whether the premiums were calculated correctly and in accordance with those rates which were approved by the Commissioner.

### **(1) Credit Disability Premium Error**

Eighty-six (86) out of the two hundred (200) requested sample files were not furnished, as previously discussed, leaving a total of one hundred and fourteen (114) sample files which were reviewed by the examiners.

Eighty-one (81) of these one hundred and fourteen (114) sample files, contained credit disability insurance. The following chart reflects one (1) certificate with a credit disability premium overcharge.

Creditor #	Certificate Number	Deviation	(a) Company's Premium	(b) Examiners' Premium	(a)-(b) Difference
0009440054	0005803550	.93	807.38	714.68	92.70

### **(2) Credit Life Premium Error**

The following chart reflects one (1) certificate with a credit life premium overcharge out of the one hundred fourteen (114) certificates reviewed by the examiners.

Creditor #	Certificate Number	Deviation	(a) Company's Premium	(b) Examiners' Premium	(a)-(b) Difference
0009440054	0005803550	.84	233.02	186.82	46.20

These credit life and credit disability premium overcharges represent violations of 8 V.S.A. § 4109 (a) which prohibits an insurer from issuing any credit life or credit accident and health insurance policy for which the premium rate exceeds that determined by the schedules of such insurer as then on file with the Commissioner. The Company agreed with both the credit life and credit disability premium differences, and has informed the examiners that they will be directly refunding the certificate holders the premium overcharges.

The examiners recommend that the corrective action the Company has agreed to, of refunding the credit life and credit disability premium overcharges directly to the certificate holders, include interest and that the Company report to the Vermont Department when this has been accomplished.

## **(C ) CREDIT CARD PROGRAM (CAP)**

### **(1) Examiners' Findings**

According to the certificate of insurance issued to individual debtors under the Company's CAP program, which insures credit card balances for life and disability insurance, the total disability benefit (30 day retro) consists of a monthly benefit equal to the minimum monthly payment required by the creditor as stated in the debtors' monthly statement. The monthly payments are paid by the Company while the disability exists until a total amount equal to the balance of the account on the date of disability has been paid.

For an example, assume that a covered individual had a credit card balance of \$700 on the date he or she became totally disabled and further assume that the debtor's monthly credit card statement required a minimum payment for that month of \$14.00. This would mean that such disabled person should receive \$14.00 per month for 50 months ( $\$700 \div \$14 = 50$ ). Thus, it can be seen that the number of months the monthly benefit is payable, in the event of total disability, can be determined by dividing the total credit card balance on the date of disability by the minimum monthly payment due on the account. Since \$14.00 is 2% of \$700, this would be referred to as a "2% payback" case. All benefits are subject to certain maximum amounts stated in the insured's certificate of insurance.

The Company's approved rate filings with the Vermont Department are based on the number of months the monthly disability benefit is payable. In the example shown above, the number of months is 50. The greater the number of months the benefit would be payable, the lower the premium rate. This is apparent when one considers that, if in the above example, the Company had to pay the total \$700 benefit in only 20 months instead of 50 months they would need to charge a higher premium for the coverage.

The examiners observed that, in actual practice, the Company charged rates based on a 20 month (5%) payback regardless of actual number of months or percent payback. This practice resulted in overcharges in cases such as the above example where the number of payback months was actually 50 (2% payback) and not 20 (5% payback).

The examiners questioned the Company about this and cited actual cases where they used 20 months (5% payback) rates for cases where the payback period was 49 months (2%) and 33 months (3%) respectively. The Company's response was as follows:

*The payback percentage that you mentioned is not the company's payback percentage, rather it is that of the credit card company. If this were a disability*

*claim, we would have taken the outstanding balance at that time and divided it by 20 months which would be the 5% monthly benefit percentage. This is the amount that the company would pay on the claim for 20 months.*

The Company's practice is not in accordance with the language of the approved policy and certificate. The approved certificate reads in part as follows:

*The benefit for each day of disability will be 1/30th of: the required minimum monthly payment under your account calculated on the basis of your account on the date you became disabled-----*. (Underlining added for emphasis)

A 20 month (5%) payback is more generous than a 49 month (2%) or a 33 month (3%) payback since the 20 month (5%) benefit would pay the same total benefit in a shorter period of time than required by the applicable provisions in the debtor's certificate. This is actually of little consequence, however, since, for example, the total number of incurred claims for this coverage for the bank pool was only 3 during 2000 and 3 during 2001, out of approximately 1,309 certificates written during those same years.

The problem is that the Company also charged the higher premium applicable to the 20 month (5%) payback rather than the correct premium for the actual benefit specified in the certificate. This constitutes violations of 8 V.S.A. § 4109 (a).

The examiners recommend that the Company immediately discontinue charging any premiums in excess of those approved by the Vermont Department for the actual benefits, as specifically defined in the certificates of insurance, as well as recalculating monthly outstanding disability premiums charged during the examination period and making appropriate refunds together with interest thereon.

## **(2) Voluntary Disclosure**

The Company voluntarily disclosed to the examiners a rating error, which they described as follows:

*However, we found that when Transamerica was implemented in our system, that the rate for a 30 day retro MOB disability program for non-bank business with a termination age of 71, .1899, was used. The actual rate charged on all Transamerica business was rounded down somewhat to .18925, but this still was in excess of the maximum rate of .1809 that should have been used. This rate was charged from the inception of the program effective 3/1/1999 through last day before the termination date of 10/25/2001.*

The examiners commend the Company for voluntarily disclosing this rating error.



**It is recommended that appropriate refunds be made to the affected debtors together with interest.**

## **(VI) PRODUCER LICENSING**

The banks and other financial institutions (creditors) through which the Company markets credit life and credit disability insurance are issued group master policies sold through a general agent. The creditors' personnel solicit the Company's credit life and credit disability insurance products to their customers (debtors).

The solicitation of these insurance products involves activities such as asking or urging a person to apply for credit life and/or credit disability insurance, explaining the benefits, terms and conditions of the insurance being offered, quoting premiums, securing the insurance by means of completing an application or enrollment form on behalf of the Company.

Personnel of the various creditors are not licensed in accordance with 8 V.S.A. § 4813b. Additionally, the Company is in violation of 8 V.S.A. § 4813l by failing to appoint its producers or file such notice of appointment with the Commissioner or pay the required \$60.00 appointment fee for each insurance producer.

### **Reference:**

**8 V.S.A. § 4813a. Definitions** provides:

Under § 4813a. (8) *“Negotiate” means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract, provided the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.*

Under § 4813a. (10) *“Sell” means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurer.*

Under § 4813a. (11) *“Solicit” means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular insurer.*

The examiners recommend that all persons engaged in the solicitation of insurance through the Company become duly licensed in accordance with 8 V.S.A. § 4813b and appointed as required by 8 V.S.A. § 4813l.

## **(VII) LEGAL ACTIONS INVOLVING OTHER INSURANCE DEPARTMENTS**

Vermont Bulletin 30 requires companies to report annually to the Department any adverse reportable legal actions taken against them by other insurance departments.

The Company failed to report any such actions for each of the years 2000, 2001 and 2002, as required. When the examiners called this to the Company's attention, their response was as follows:

*According to Bulletin 30, we believe we did comply with V.S.A. § 3651 because the one fine we paid to another department of insurance was reported in our annual statement for 2002. Based on the requirements of Bulletin 30 we did not have any actions that would require a special filing to report the actions.*

The examiners requested the Company to point out where in their Annual Statement for 2002 the fine was reported. Their response was that the amount of \$125,000 was included in the Annual Statement on page 4, line 24-Insurance Taxes, Licenses and Fees. An amount of \$6,027,929 was reported in aggregate including all taxes, licenses and fees, and there was no identification of a \$125,000 fine.

The fact is that the Company did not report any fine in their 2002 annual statement as alleged nor did they report any of the thirteen (13) reportable actions by other state insurance departments during the examination period, which are listed below:

<b>Amount</b>	<b>Date</b>	<b>Reason for Fine</b>	<b>State</b>
\$21.11	5-19-2000	Late fee	VA
\$500.00	10-3-2000	Failure to respond to customer complaint	WI
\$1,000.00	10-16-2000	Late audit filing penalty	NV
\$3,000.00	12-13-2000	Administrative penalty	MD
\$50.00	12-15-2000	Underpayment of premium tax penalty	CT
\$50.00	12-18-2000	Underpayment of premium tax penalty	CT
\$819.00	1-23-2001	Interest penalty	OR
\$1,000.00	6-28-2001	Failure to file annual complaint report	NV

\$1,000.00	7-2-2001	Failure to file annual complaint report	NV
\$249.43	8-10-2001	Underpayment of premium tax penalty	CT
\$223.30	8-10-2001	Underpayment of tax penalty	CT
\$256.90	3-22-2002	Unpaid 4 <sup>th</sup> quarter estimated tax penalty	MD
\$125,000.00	5-2-2002	Market conduct exam penalty	MN

The \$125,000.00 fine by the Minnesota Insurance Department resulted from a market conduct examination. The predominant violations cited in the order stemmed from issues involving claims processing, record retention, agents licensing and advertising.

It is recommended that, in the future, the Company notify the Vermont Department of all reportable actions involving any insurance departments of other states as required by Bulletin 30 and in the required format.

## **SUMMARY OF RECOMMENDATIONS**

**1.**

**Page 9**

The examiners recommend that the Company specify a date (deadline) by which the required Notice of Transfer will be sent to all affected certificateholders and policyholders regarding the assumption reinsurance. By the end of that time a senior officer should certify, in writing to the Commissioner, that the task has been completed in accordance with the law.

**2.**

**Page 10**

The examiners recommend that the Company discontinue the described reinsurance agreements, which are among those types of transactions prohibited by Vermont Regulation 84-1 § 12 (1).

**3.**

**Page 11**

The Company should revise its claim procedures so as to pay the required interest on all future death claims and should go back and pay the proper amount of interest on all death claims paid during the past five (5) years. Such interest should accrue from the dates of death until the interest is paid by the Company.

**4.**

**Page 13**

It is recommended that the Company immediately begin refunding the unearned disability (A&H) premium directly to the beneficiaries upon the death of an insured in addition to going back and paying such amounts on all claims paid during the past five (5) years, with interest thereon.

**5.**

**Page 13**

In the future the Company should notify claimants every 30 days setting forth the reasons any additional time was needed for the investigation, in accordance with Vermont Regulation 79-2 § 6 C.

**6.**

**Page 14**

The Company should respond to all inquiries or complaints from the Vermont Department within 15 working days as required by Regulation 79-2 § 5 C.

7.

**Pages 15 & 16**

The Company should make substantial changes in its record keeping complying with all applicable provisions of Vermont Regulation 99-1.

8.

**Page 17**

The examiners recommend that the Company immediately follow through with its new proposal to audit the creditors annually, paying particular attention to the problems discussed in this report.

9.

**Page 19**

The examiners recommend that the Company go back and make rate reductions and appropriate refunds on all policies where the rates were not reduced due to their failure to file rates and experience on a timely basis as well as in the cases where the Company failed to reduce rates due to their improper use of a 6% investment assumption rather than an 8% investment assumption in their rate calculations together with interest thereon. The refunds should begin with policies issued on or after September 1, 2001.

10.

**Page 21**

The examiners recommend that the corrective action the Company has agreed to, of refunding the credit life and credit disability premium overcharges directly to the certificate holders, include interest and that the Company report to the Vermont Department when this has been accomplished.

11.

**Page 22**

The examiners recommend that the Company immediately discontinue charging any premiums in excess of those approved by the Vermont Department for the actual benefits, as specifically defined in the certificates of insurance, as well as recalculating monthly outstanding disability premiums charged during the examination period and making appropriate refunds together with interest thereon.

12.

**Page 24**

The examiners recommend that all persons engaged in the solicitation of insurance through the Company become duly licensed in accordance with 8 V.S.A. § 4813b and appointed as required by 8 V.S.A. § 4813l.

13.

**Page 26**

It is recommended that, in the future, the Company notify the Vermont Department of all reportable actions involving any insurance departments of other states as required by Bulletin 30 and in the required format.

## **APPENDIX**

### **(Claims Procedures and Processing)**

**See Attached Chart**

<b>Claim #</b>	<b>Comments</b>	<b>Violations</b>
92945	No refund of the A&H unearned premium	8 V.S.A. § 4724 (12) and Reg. 84-1 § 3 (9) (a)
94537	No interest was paid on the life claim, there was no refund of the A&H unearned premium	8 V.S.A. § 3665 ( c) (2) and 8 V.S.A. § 4724 (12) and Reg. 84-1 § 3 (9) (a)
95017	No interest was paid on the life claim, there was no refund of the A&H unearned premium	8 V.S.A. § 3665 ( c) (2) and 8 V.S.A. § 4724 (12) and Reg. 84-1 § 3 (9) (a)
99266	No interest was paid on the life claim	8 V.S.A. § 3665 ( c) (2)
100842	No interest was paid on the life claim, there was no refund of the A&H unearned premium	8 V.S.A. § 3665 ( c) (2) and 8 V.S.A. § 4724 (12) and Reg. 84-1 § 3 (9) (a)
107392	No interest was paid on the life claim, there was no refund of the A&H unearned premium	8 V.S.A. § 3665 ( c) (2) and 8 V.S.A. § 4724 (12) and Reg. 84-1 § 3 (9) (a)
106165	No interest was paid on the life claim, there was no refund of the A&H unearned premium	8 V.S.A. § 3665 ( c) (2) and 8 V.S.A. § 4724 (12) and Reg. 84-1 § 3 (9) (a)
97813	No interest was paid on the life claim	8 V.S.A. § 3665 ( c) (2)
97721	No interest was paid on the life claim, there was no refund of the A&H unearned premium	8 V.S.A. § 3665 ( c) (2) and 8 V.S.A. § 4724 (12) and Reg. 84-1 § 3 (9) (a)
92276	No interest was paid on the life claim, there was no refund of the A&H unearned premium	8 V.S.A. § 3665 ( c) (2) and 8 V.S.A. § 4724 (12) and Reg. 84-1 § 3 (9) (a)
91746	No interest was paid on the life claim, there was no refund of the A&H unearned premium	8 V.S.A. § 3665 ( c) (2) and 8 V.S.A. § 4724 (12) and Reg. 84-1 § 3 (9) (a)
90113	No interest was paid on the life claim	8 V.S.A. § 3665 ( c) (2)
90529	No interest was paid on the life claim	8 V.S.A. § 3665 ( c) (2)
89703	No interest was paid on the life claim	8 V.S.A. § 3665 ( c) (2)



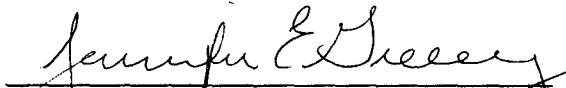
99426	No interest was paid on the life claim	8 V.S.A. § 3665 ( c) (2)
100843	No interest was paid on the life claim	8 V.S.A. § 3665 ( c) (2)
101319	No interest was paid on the life claim	8 V.S.A. § 3665 ( c) (2)
103488	No interest was paid on the life claim	8 V.S.A. § 3665 ( c) (2)
107025	No interest was paid on the life claim	8 V.S.A. § 3665 ( c) (2)
106979	No interest was paid on the life claim	8 V.S.A. § 3665 ( c) (2)
107066	No interest was paid on the life claim	8 V.S.A. § 3665 ( c) (2)
107067	No interest was paid on the life claim	8 V.S.A. § 3665 ( c) (2)
107412	No interest was paid on the life claim	8 V.S.A. § 3665 ( c) (2)
109470	No interest was paid on the life claim	8 V.S.A. § 3665 ( c) (2)
93080	No interest was paid on the life claim	8 V.S.A. § 3665 ( c) (2)
98492	No interest was paid on the life claim	8 V.S.A. § 3665 ( c) (2)
107089	Was not timely paid and did not apply penalty rate of 12%	8 V.S.A. § 3665 ( d)
92278	Was not timely paid and did not apply penalty rate of 12%	8 V.S.A. § 3665 ( d)
104456	Was not timely paid and did not apply penalty rate of 12%	8 V.S.A. § 3665 ( d)
90146	Did not refund A&H unearned premium	8 V.S.A. § 4724 (12) and Reg. 84-1 § 3 (9) (a)
102272	Did not refund A&H unearned premium and paid an interest rate of 5% not the required 6% statutory interest rate	8 V.S.A. § 4724 (12) and Reg. 84-1 § 3 (9) (a) and 8 V.S.A. § 3665 ( c) (2)
110419	Did not refund A&H unearned premium and paid an interest rate of 4% not the required 6% statutory interest	8 V.S.A. § 4724 (12) and Reg. 84-1 § 3 (9) (a) and 8 V.S.A. § 3665 ( c) (2)

110857	Did not refund A&H unearned premium and paid an interest rate of 5% not the required 6% statutory interest	8 V.S.A. § 4724 (12) and Reg. 84-1 § 3 (9) (a) and 8 V.S.A. § 3665 (c) (2)
102627	No interest was paid on the life claim	8 V.S.A. § 3665 (c) (2)
100384	No interest was paid on the life claim	8 V.S.A. § 3665 (c) (2)
98423	No interest was paid on the life claim	8 V.S.A. § 3665 (c) (2)
111743	No refund of the A&H unearned premium	8 V.S.A. § 4724 (12) and Reg. 84-1 § 3 (9) (a)
106947	No interest was paid on life claim and no refund of the A&H unearned premium	8 V.S.A. § 3665 (c) (2) and 8 V.S.A. § 4724 (12) and Reg. 84-1 § 3 (9) (a)
107090	Was not timely paid and did not apply penalty rate of 12%	8 V.S.A. § 3665 (d)
96080	No refund of the A&H unearned premium	Reg. 84-1 § 3 (9) (a) and 8 V.S.A. § 4724 (12)
96100	No refund of the A&H unearned premium	Reg. 84-1 § 3 (9) (a) and 8 V.S.A. § 4724 (12)
111782	No refund of the A&H unearned premium	Reg. 84-1 § 3 (9) (a) and 8 V.S.A. § 4724 (12)

## CERTIFICATION

James R. Montgomery III, AIE, FLMI, MAAA, Robbie L. Kriplean, CIE, AIRC and Jennifer E. Greenway, AIRC participated in this examination.

I, Jennifer E. Greenway, being duly sworn, do hereby affirm that the foregoing report of the Market Conduct Examination of the American General Assurance Company is true and correct to the best of my knowledge and belief.

  
Jennifer E. Greenway, AIRC

Notary Seal

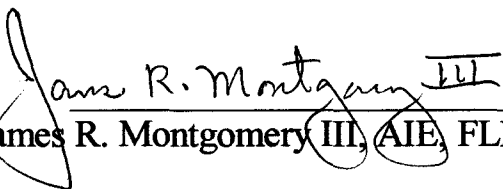
Subscribed and sworn to before me this 13<sup>th</sup> day of April, 2006.

  
\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires January 31, 2008

James R. Montgomery III, AIE, FLMI, MAAA, Robbie L. Kriplean, CIE, AIRC and Jennifer E. Greenway, AIRC participated in this examination.

I, James R. Montgomery III, being duly sworn, do hereby affirm that the foregoing report of the Market Conduct Examination of the American General Assurance Company is true and correct to the best of my knowledge and belief.

  
James R. Montgomery III, AIE, FLMI, MAAA

Notary Seal

Subscribed and sworn to before me this 11 day of April, 2006.

  
NOTARY PUBLIC



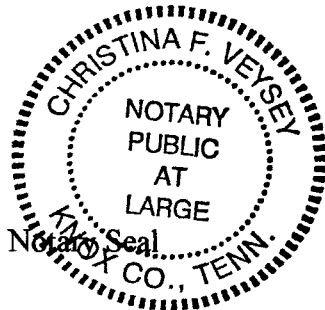
**D. Hodge**  
Commission # DD396051  
Expires February 14, 2009  
Bonded Troy Fain - Insurance, Inc. 800-385-7019

## CERTIFICATION

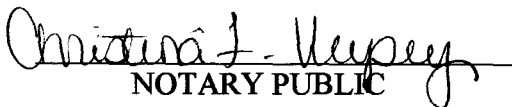
James R. Montgomery III, AIE, FLMI, MAAA, Robbie L. Kriplean, CIE, AIRC and Jennifer E. Greenway, AIRC participated in this examination.

I, Robbie L. Kriplean, being duly sworn, do hereby affirm that the foregoing report of the Market Conduct Examination of the American General Assurance Company is true and correct to the best of my knowledge and belief.

  
Robbie L. Kriplean, CIE, AIRC



Subscribed and sworn to before me this 11 day of April, 2006.

  
NOTARY PUBLIC